



Docket No.: 218083US6PCT

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313



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ATTORNEYS AT LAW

OCT 14 2004

OFFICE OF PETITIONS

RE: Application Serial No.: 10/030,192

Applicants: Erich BAYER

Filing Date: February 4, 2002

For: OTOPLASTY FOR BEHIND-THE-EAR HEARING
AIDS

Group Art Unit: 2643

Examiner: NI, SUHAN

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Technology Center 2600

SIR:

Attached hereto for filing are the following papers:

**PETITION TO WITHDRAW FROM HOLDING OF ABANDONMENT
ATTORNEY DECLARATION**

COPY OF NOTICE OF APPEAL FILED MARCH 8, 2004

COPY OF REQUEST FOR 3-MONTH EXTENSION OF TIME FILED MARCH 8, 2004

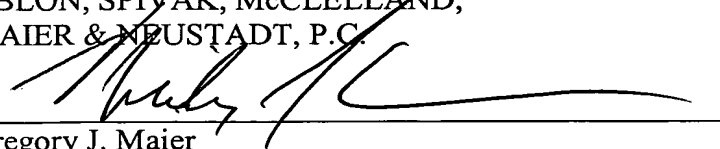
COPY OF DATE-STAMPED FILING RECEIPT OF MARCH 8, 2004

COPY OF REQUEST FOR 5-MONTH EXTENSION OF TIME FILED OCTOBER 8, 2004

Our credit card payment form in the amount of \$130.00 is attached covering any required fees. In the event any variance exists between the amount enclosed and the Patent Office charges for filing the above-noted documents, including any fees required under 37 C.F.R. 1.136 for any necessary Extension of Time to make the filing of the attached documents timely, please charge or credit the difference to our Deposit Account No. 15-0030. Further, if these papers are not considered timely filed, then a petition is hereby made under 37 C.F.R. 1.136 for the necessary extension of time. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.


Gregory J. Maier

Registration No. 25,599

Customer Number

22850

(703) 413-3000 (phone)

(703) 413-2220 (fax)

Philip J. Hoffmann

Registration No. 46,340

10/12/2004 JBALINAH 00000015 10030192

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130.00 OP

O I P E J C I 17
OCT 08 2004
PATENT & TRADEMARK OFFICE
DOCKET NO. 218083US6PCT

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :
ERICH BAYER : EXAMINER: NI, SUHAN
SERIAL NO: 10/030,192 :
FILED: FEBRUARY 4, 2002 : GROUP ART UNIT: 2643
FOR: OTOPLASTY FOR BEHIND-THE- :
EAR HEARING AIDS :

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OFFICE OF PETITIONS

PETITION TO WITHDRAW FROM HOLDING OF ABANDONMENT

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

Responsive to the Notice of Abandonment dated September 22, 2004, Applicants herewith request withdrawal of said abandonment for the following reasons.

A Final Office Action was mailed by the Examiner on September 8, 2003, with a 3 month shortened statutory time period, to expire on December 8, 2003.

Enclosed herewith is a copy of the date-stamped filing receipt evidencing filing of an Notice of Appeal and Request for Three Month Extension of Time of March 8, 2004. We are also enclosing a copy of a Request for Extension of Time for five months filed October 8, 2004. Applicants respectfully assert that the abandonment was premature in that 37 C.F.R. § 1.192(a) provides that further action is to be taken within two months of the date of the filing of the Notice of Appeal, and in accordance with 37 C.F.R § 1.136(a)(1) that this time period

Application No. 10/030,192
Petition to Withdraw from Holding of Abandonment

is extendable for up to five additional months. Thus, in this case the five-month extension of time extended the due date to October 8, 2004.

In accordance with the requirements of 37 C.F.R. 1.17(h) Applicants are submitting herewith a credit card payment form in the amount of \$130.00. Applicants respectfully assert that because the Notice of Abandonment was mailed prematurely Applicants respectfully request that the payment be refunded to deposit account number 15-0030.

In order to expedite prosecution, Applicant's Attorney is submitting a signed, certified copy of the documents indicated above.

It is believed that the above discussion and documents enclosed herewith clearly prove that the holding of abandonment was issued in error.

Accordingly, it is requested the holding of abandonment be withdrawn.

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Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Gregory J. Maier
Registration No. 25,599
Attorney of Record

Philip J. Hoffmann
Registration No. 46,340

GJM/PH/me

I:\ATTY\PH\21S\218083\PETITION TO WITHDRAW FRM ABANDONMENT 10082004.DOC

DOCKET NO. 218083US6PCT

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :

ERICH BAYER

: EXAMINER: NI, SUHAN

SERIAL NO: 10/030,192 :

FILED: FEBRUARY 4, 2002

: GROUP ART UNIT: 2643

FOR: OTOPLASTY FOR BEHIND-THE-
EAR HEARING AIDS :

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ATTORNEY DECLARATION

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

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OFFICE OF PETITIONS

I, Steven P. Weihrouch, attorney of record in the above-identified application, declare the attached to be a true and accurate copy of material to and from the Patent Office from our file.

The undersigned declares further that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.


Customer Number

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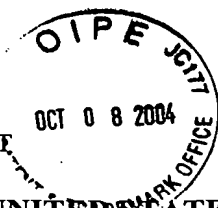
Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 06/04)

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.


Steven P. Weihrouch
Registration No. 32,829
Attorney of Record

Docket No. 218083US6PCT



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF: Erich BAYER

SERIAL NO: 10/030,192

GAU: 2643

FILED: February 4, 2002

EXAMINER: NI, SUHAN

FOR: OTOPLASTY FOR BEHIND-THE-EAR HEARING AIDS

REQUEST FOR EXTENSION OF TIME
UNDER 37 C.F.R. 1.136

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COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

It is hereby requested that a five month extension of time be granted to October 8, 2004 for

- ☐ filing a response to the Official Action dated:
- ☐ responding to the requirements in the Notice of Allowability dated:
- ☐ filing the Formal Drawings. The Issue Fee due has been timely filed.
- ☐ responding to the Notice to File Missing Parts of Application dated:
- ☐ filing a Notice of Appeal. A timely response to the final rejection, due has been filed.
- ☒ filing a continuation application in lieu of an Appeal Brief. A Notice of Appeal was filed on: March 8, 2004
- ☒ Applicant claims small entity status. See 37 CFR 1.27. Therefore, the fee amount shown below is reduced by one-half.

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The required fee of \$1,040.00 is enclosed herewith by credit card payment and any further charges may be made against the Attorney of Record's Deposit Account No. 15-0030. A duplicate copy of this sheet is enclosed.

Respectfully Submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

Gregory J. Maier

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10/12/2004 JBALINAN 00000007 10030192

01 FC:2255

1040.00 DP



Dept.: E/M

By: GJM/PH/me

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OSMM&N File No. 218083US6PCT

Serial No. 10/030,192

In the matter of the Application of: Erich BAYER

For: OTOPLASTY FOR BEHIND-THE-EAR HEARING AIDS

Due Date: March 8, 2004

The following has been received in the U.S. Patent Office on the date stamped hereon:

- ☐ Check for \$640.00
- ☐ Cover Letter
- ☐ Amendment (After Final)
- ☐ Request for Extension of Time (3 months)
- ☐ Notice of Appeal

☐ Dep. Acct. Order Form



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OFFICE OF PETITIONS

Transaction List

Search by

☐ Accounting Date: Operator ID:
(MMDDYY)

Accounting Date

Starts:

Ends:

☒ Name/Number:

☐ Attny Docket No:

☐ Deposit Account No.:



Accounting Date	Operator ID	Seq. No.	Txn Src	Fee Code	St	Amount	Name/Number	Dep Acct
10/12/2004	JBALINAN	22	SALE	1460	A	130.00	10030192	
10/12/2004	JBALINAN	9	SALE	2255	A	1,040.00	10030192	
06/04/2004	MMEKONEN	66	SALE	1806	A	180.00	10030192	
03/10/2004	BABRAHA1	32	SALE	2253	A	475.00	10030192	
03/10/2004	BABRAHA1	31	SALE	2401	A	165.00	10030192	
04/01/2003	EAREGAY1	4	SALE	2251	A	55.00	10030192	
06/25/2002	SNAJARRO	1	ADJ	969	A	-140.00	10030192	150030
04/10/2002	MNGUYEN	6	SALE	969	R	140.00	10030192	150030
02/06/2002	MNGUYEN	213	SALE	254	A	65.00	10030192	
02/06/2002	MNGUYEN	212	SALE	971	A	445.00	10030192	



Adjustment Detail

Authorization Detail



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OFFICE OF PETITIONS

Docket No. 218083US6PCT

OCT 08 2004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF: Erich BAYER

GAU: 2643

SERIAL NO: 10/030,192

EXAMINER: TRAN, S.

FILED: June 7, 2002

FOR: OTOPLASTY FOR BEHIND-THE-EAR HEARING AIDS

NOTICE OF APPEAL

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COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

Applicants hereby appeal to the Board of Appeals from the decision dated September 8, 2003.

The items checked below are appropriate:

☐ A Petition for Extension of Time Under 37 C.F.R. §1.136 was filed for _____ months.

☒ A timely response to the final rejection has been filed herewith, as provided in 841 O.G. 1411.

☒ A Petition for Extension of Time for filing the Notice of Appeal is attached.

Fee: \$165.00

☒ Applicant claims small entity status. See 37 CFR 1.27.

☒ A check is Enclosed

☐ A credit card payment form is enclosed

☐ Charge to Deposit Account No. 15-0030 (an additional copy of this notice is enclosed herewith).

☒ Please charge any additional fees or credit any overpayment of fees required for filing the Notice of Appeal to Deposit Account No. 15-0030. A duplicate copy of this Notice is enclosed.

☒ If this notice is not considered timely filed by the U.S. Patent and Trademark Office, then a petition is hereby made under 37 C.F.R. §1.136, and any additional fees required under 37 C.F.R. §1.136 for any necessary extension of time may be charged to Deposit Account No. 15-0030. A duplicate copy of this Notice is enclosed.

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Respectfully Submitted,

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Docket No. 218083US6PCT



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF: Erich BAYER

SERIAL NO: 10/030,192

GAU: 2643

FILED: June 7, 2002

EXAMINER: TRAN, S.

FOR: OTOPLASTY FOR BEHIND-THE-EAR HEARING AIDS

REQUEST FOR EXTENSION OF TIME
UNDER 37 C.F.R. 1.136

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COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

It is hereby requested that a three month extension of time be granted to March 8, 2004, for

- ☐ filing a response to the Official Action dated:
- ☐ responding to the requirements in the Notice of Allowability dated:
- ☐ filing the Formal Drawings. The Issue Fee due has been timely filed.
- ☐ responding to the Notice to File Missing Parts of Application dated:
- ☒ filing a Notice of Appeal. A timely response to the final rejection, due December 8, 2003, has been filed herewith
- ☐ filing an Appeal Brief. A Notice of Appeal was filed on:
- ☒ Applicant claims small entity status. See 37 CFR 1.27. Therefore, the fee amount shown below is reduced by one-half.

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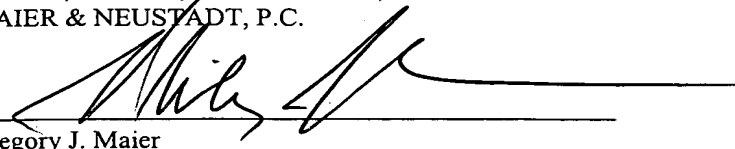
OCT 14 2004

OFFICE OF PETITIONS

The required fee of 475.00 is enclosed herewith by check and any further charges may be made against the Attorney of Record's Deposit Account No. 15-0030. A duplicate copy of this sheet is enclosed.

Respectfully Submitted,

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